

JUL 26 2005

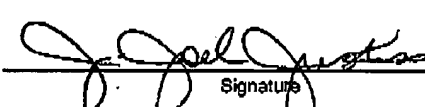
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) <b>BERTHOUD 22</b>	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>July 26, 2005</u> Signature <u>Debbie Sams</u> Typed or printed name <u>Debbie Sams</u>		Application Number <b>10/041,146</b>	Filed <b>January 4, 2002</b>
		First Named Inventor <b>Charles W. Berthoud</b>	
		Art Unit <b>2116</b>	Examiner <b>Tse W. CHen</b>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature <b>J. Joel Justiss</b>	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>48,981</u>		<b>972-480-8800</b>	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<b>July 26, 2005</b>	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

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JUL 26 2005

Applicant: Charles W. Berthoud

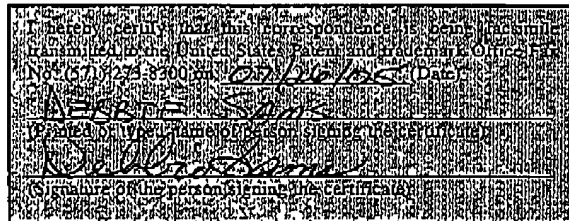
Serial No.: 10/041,146

Filed: January 4, 2002

Title: A PERFORMANCE INDICATION SYSTEM FOR USE WITH A  
UNIVERSAL SERIAL BUS SIGNAL AND A METHOD OF  
OPERATION THEREOF

Grp./A.U.: 2116

Examiner: Tse W. Chen

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The Applicants have carefully considered this application in connection with the Examiner's Final Rejection mailed April 26, 2005, and respectfully request a pre-appeal brief review of this application in view of the following remarks.

**REMARKS/ARGUMENTS**

The Applicant originally submitted Claims 1-21 in the application. In a previous response, the Applicant amended Claims 1, 4-5, 7-8, 15, 18-19 and 21. Accordingly, Claims 1-21 are currently pending in the application.

**I. Rejection of Claims 1-21 under 35 U.S.C. §103**

The Examiner has rejected Claims 1-21 under 35 U.S.C. §103(a). Claims 1, 4, 7-8, 11, 14-15, 18 and 21 have been rejected as being unpatentable over U.S. Patent No. 6,308,215 to Kolbet, *et al.*, in view of U.S. Patent No. 5,469,746 to Fukunaga. Dependent Claims 2, 9 and 16 have been rejected as being unpatentable over Kolbet and Fukunaga in view of U.S. Patent No. 4,402,271 to Heidmann, *et al.* Dependent Claims 3, 10 and 17 have been rejected as being unpatentable over Kolbet and Fukunaga in view of U.S. Patent No. 6,542,946 to Wooten. Dependent Claims 5, 12 and 19 have been rejected as being unpatentable over Kolbet and Fukunaga in view of U.S. Patent No. 5,365,577 to Davis, *et al.* Additionally, dependent Claims 6, 13 and 20 have been rejected as being unpatentable over Kolbet and Fukunaga in view of U.S. Patent Application Publication No. 20030026183 by Kitagawa.

The Applicant respectfully disagrees with the Examiner's rejections. More specifically, the Applicant respectfully disagrees with the Examiner's rejection of independent Claims 1, 8 and 15 based on the cited combination of Kolbet and Fukunaga. First, the cited combination of Kolbet and Fukunaga, individually or in combination, does not teach or suggest each element of independent Claims 1, 8 and 15. (See the reply filed on June 17, 2005, at the last paragraph of page 2 and the first two paragraphs of page 3.) Additionally, there is no suggestion or motivation in either Kolbet, Fukunaga or in the knowledge generally available to one of ordinary skill in the art to modify the teachings of Kolbet or Fukunaga or to combine the teachings of Kolbet or Fukunaga to arrive at the present invention as recited in independent Claims 1, 8 and 15. (See the reply filed on June 17, 2005, at the last paragraph of page 3 and the first paragraph of page 4.) Furthermore, there is no motivation to combine Kolbet and Fukunaga. (See the reply filed on June 17, 2005, at the second paragraph of page 4.)

Accordingly, the Applicant respectfully request review of the rejection of independent Claims 1, 8 and 15 and Claims dependent thereon of the present application. Not only does the cited combination of Kolbet and Fukunaga fail to teach or suggest each element of independent Claims 1, 8 and 15, but the cited combination of these references is also improper.

**II. Conclusion**

In view of the foregoing remarks, the Applicant sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-21.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

HITT GAINES, PC



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Registration No. 48,981

Dated: 7/26/05

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